THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No. 23820 OF 1997

Date: 19.02.2007

The Assistant Research Officer, Livestock Research Station, A.P. Agricultural University, Mahabubnagar and another.

... Petitioners.

And

Smt. Mallamma.

... Respondent.

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No. 23820 OF 1997

ORDER:

This writ petition is filed to set aside the *ex parte* award dated 06.11.1996 of the Labour Court III, Hyderabad in I.D. No. 139 of 1996 with regards the attendant benefits including seniority and 25% of back wages. The award in so far as the first respondent was directed to be reinstated is not under challenge and she has since been reinstated into service on 15.04.1997. The Labour Court III, Hyderabad set the petitioner herein *ex parte*. The petitioners herein were present and prayed for time and the matter was posted on 21.09.1996 on which date they were called absent and were set *ex parte*. The matter was considered on merits and on the ground that the services of the first respondent was terminated, without following the procedure prescribed under Section 25-F of the Industrial Disputes Act, the Labour Court III, Hyderabad held that the termination was not in accordance with law. While leaving it open to the petitioner to seek setting aside of the order by showing sufficient ground, if they so choose, and observing that such request would be considered on its own merits, the Labour Court III passed the order setting aside the order of removal and directing the petitioners herein to reinstate the first respondent into service with

all attendant benefits including seniority and 25% of back wages as she was a lady and had lost her earnings on account of the illegal termination.

All that is stated in the affidavit filed in support of the writ petition is that on 21.09.1996 the petitioner herein could not represent the case and owing to illness the counter-affidavit could not be filed. Nothing is stated in the affidavit as to why a petition to set aside the *ex-parte* award was not filed before the Labour Court itself despite a specific observation in the award that it was open for the petitioner to do so, nor is there any evidence placed before this Court in support of the submission that the petitioner was unwell on 21.09.1996 and could not attend the Labour Court. The order of the Labour Court III in setting the petitioner *ex parte* cannot be faulted. In so far as payment of 25% of back wages is concerned, Sri B. Siva Reddy, learned Counsel for the petitioner would point out that while the services of the first respondent were terminated in August 1993 she had chosen to approach the Labour Court only in 1996 and as such ought not to have been granted back wages. It is necessary to note the Labour Court has not awarded full back wages and has restricted back wages only to 25%.

It is well settled that this Court in certiorari proceedings does not sit in appeal over orders of Labour Court/Tribunal nor would it, ordinarily, substitute its views for that of the Labour Court. It is only when the discretion exercised by the Labour Court in awarding back wages is found to be perverse or contrary to law would this Court interfere. Nothing has been shown as to

how the discretion exercised by the Labour Court, in directing payment of 25% back wages to the first respondent, is contrary to law. The writ petition fails and is accordingly dismissed.

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Date: 19.02.2007 RAMESH RANGANATHAN, J

MRKR